Case 2:17-cv-00191-KS-MTP Document 1-2 Filed 11/22/17

Page 1 of 21

IN THE CIRCUIT COURT OF PERRY COUNTY, MISSISSIPP

OCT 19 2017

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JERRY HINTON

V.

CAUSE NO.: 2017 - 0147 H

BAGBY ELEVATOR COMPANY, MONTGOMERY ELEVATOR COMPANY, KONE INC., JOHN DOE PERSON(S) 1 - 5 and JOHN DOE ENTITY(IES) 1 - 5

**DEFENDANTS** 

## COMPLAINT (Jury Trial Requested)

COMES NOW the Plaintiff, Jerry Hinton, by and through his counsel of record, and files this Complaint against the Defendants, Bagby Elevator Company, Montgomery Elevator Company, KONE INC., John Doe Person(s) 1 - 5 and John Doe Entity(ies) 1 - 5, and in support thereof, would show unto this Honorable Court the following, to-wit:

#### I. Parties

1.

The Plaintiff, Jerry Hinton, is an adult resident citizen of Perry County, Beaumont, Mississippi.

2.

The Defendant, Bagby Elevator Company, is a foreign corporation registered to do business in the State of Mississippi, who may be served with process through its registered agent for service of process, CT Corporation System, 645 Lakeland East Drive, Suite 101, Flowood, Mississippi 39232.

3.

The Defendant, Montgomery Elevator Company, is a foreign corporation registered to do business in the State of Mississippi, who may be served with process through its registered agent for service of process, CT Corporation System, 118 North Congress Street, Jackson, Mississippi 39205.

4.

The Defendant, KONE INC., is a foreign corporation registered to do business in the State of



Mississippi, who may be served with process through its registered agent for service of process, Corporation Service Company, 5760 I-55 North, Suite 150, Jackson, Mississippi 39211.

5.

John Doe Person(s) are any unknown persons who may have been responsible for or who may have contributed to the negligence alleged herein. They may be added as Defendants when their identities become known.

6.

John Doe Entity(ies) are any unknown companies who may have been responsible for or who may have contributed to the negligence alleged herein. They may be added as Defendants when their identities become known.

#### II. Jurisdiction and Venue

7.

That this cause of action occurred or accrued in Perry County, Mississippi and that pursuant to the Mississippi Rules of Civil Procedure, this Court has jurisdiction.

## III. Basic Facts Giving Rise to Claim for Relief

8.

That on or about November 4, 2014, Plaintiff was working at his place of employment. As Plaintiff walked through the elevator, the elevator door came down and struck the Plaintiff, causing the Plaintiff to sustain serious bodily injury.

9.

The Defendants have a non-delegable duty to provide safe equipment for the employees and invitees, such as the Plaintiff, on the premises.

10.

At all times pertinent, the Plaintiff was an invitee and well within his civil rights to be on the premises or vicinity and thus the Defendants had a duty to maintain safe equipment.

#### IV. Negligence

11.

The Defendants failed to provide and maintain safe equipment for the employees and invitees on the premises.

12.

The Defendants failed to properly and adequately inspect and maintain its equipment on the premises.

13.

The Defendants were negligent for its failure to warn the Plaintiff of the dangers to his person while on the premises.

14.

The Defendants failed to perform and violated or breached all and singularly the duties owed to Plaintiff as set forth in the preceding paragraphs hereof, and such failure, breach and violation constituted negligence on the part of the Defendants.

#### V. Damages

15.

As a direct and proximate result of the negligence of the Defendants, the Plaintiff, Jerry Hinton, suffered injuries and damages which include, but are not limited to the following:

- A. Past, present and future physical pain and suffering;
- B. Inconvenience and aggravation resulting in emotional and mental suffering past, present and future;
- C. Hospital bills, doctor bills, prescription drug bills and other medical and medical related expenses which have been incurred and which will continue to be incurred in the future;
- D. Permanent physical impairment and disability;
- E. Loss of wages; and

## F. Loss of enjoyment of life.

WHEREFORE, PREMISES CONSIDERED, Plaintiff, Jerry Hinton, demands a judgment of, from and against the Defendants in an amount within the jurisdictional limits of this Court to be determined at the trial of this cause plus interest from the date of the filing of the original Complaint and all costs of Court.

RESPECTFULLY SUBMITTED this the 17th day of October, 2017.

Jerry Hinton Plaintiff

By:

Brett A Ferguson (MSB# 103236)

Attorney for Plaintiff

#### Of Counsel:

Schwartz & Associates, P.A. 162 East Amite Street Post Office Box 3949 Jackson, Mississippi 39207 Telephone: 601-988-8888

Facsimile: 601-949-7929

### IN THE CIRCUIT COURT OF PERRY COUNTY, MISSISSIPPI

JERRY HINTON

PLAINTIFF

٧.

CAUSE NO.: 2017-0147H

BAGBY ELEVATOR COMPANY, MONTGOMERY ELEVATOR COMPANY, KONE INC., JOHN DOE PERSON(S) 1 - 5 and JOHN DOE ENTITY(IES) 1 - 5

DEFENDANTS

#### **SUMMONS**

TO ANY OTHER LAWFUL AUTHORIZED PERSON, WE COMMAND YOU TO SUMMON:

TO: Corporation Service Company, Registered Agent for

KONE INC.

5760 I-55 North, Suite 150 Jackson, Mississippi 39211

#### NOTICE TO DEFENDANT

THE COMPLAINT AND DISCOVERY, WHICH ARE ATTACHED TO THIS SUMMONS, IS IMPORTANT AND YOU MUST TAKE IMMEDIATE ACTION TO PROTECT YOUR RIGHTS.

You are required to mail or hand-deliver a copy of a written response to the Complaint and Plaintiff's First Set of Interrogatories Propounded to Defendant and Plaintiff's First Set of Requests for Production of Documents Propounded to Defendant to the Honorable Brett Ferguson, the attorney for the Plaintiff(s), whose address is 162 East Amite Street, Jackson, Mississippi 39201 and mailing address of Post Office Box 3949, Jackson, Mississippi 39207-3949.

Your response must be mailed or delivered within thirty (30) days from the date of delivery of this Summons, Complaint and Discovery or a judgment by default will be entered against you for the money or other things demanded in the Complaint. Your response to Plaintiff's First Set of Separate Interrogatories Propounded to Defendant and Plaintiff's First Set of Request for Production of Documents Propounded to Defendant must be mailed or delivered within forty-five (45) days from the date of delivery of this Summons or a judgment by default will be entered against you for the money or other things demanded in the Complaint.

You must file the original of your response with the Clerk of this Court within a reasonable time afterward.

Issued under my hand and the seal of said Court, this the day of October, 2017.

Truit Clerk of Perry County, Mississipp.

D.C. Dura Dicker

| el,                          | Case: 56C11:17-cv UP4R ODOCIFMOTH: SE RIEXI:10 2017 Page 2 of 2  (Process Server)  [Use separate proof of service for each person served]   |
|------------------------------|---|
| Name o                       | A A 9 T/A DELL<br>of Person or Entity Served  |
| named<br>inform              | I, the undersigned process server, served the Summons, Complaint and Discovery upon the person or entity above in the manner set forth below [process server must check proper space and provide all additional ation that is requested to the mode of service used]:   |
| O                            | FIRST CLASS MAIL AND ACKNOWLEDGMENT SERVICE. By mailing (by first class mail, postage prepaid) copies to the person served, together with copies of the form of notice and acknowledgment and return envelope, postage prepaid, addressed to the sender [attached completed acknowledgment of receipt pursuant to M.R.C.P. Form 1B].  |
| *                            | PERSONAL SERVICE. I personally delivered an issued Summons, Complaint and Discovery to Angria  Office on the 17 day of 0 fto 15 , 2017, where I found said person in Hinds  County of the State of Mississippi. 1117  |
| ۵                            | RESIDENCE SERVICE. After exercising reasonable diligence I was unable to deliver copies to said person within  County, Mississippi. I served the Summons, Complaint and Discovery on the  County, Mississippi. I served the Summons, Complaint and Discovery on the   |
|                              | Complaint and Discovery with  [here insert wife, husband, son, daughter, or other person as the case may be], a member of the family of the person served above the age of sixteen (16) years and willing to receive the Summons, Complaint and Discovery, and thereafter on the day of, 2017, I mailed (by first class mail, postage prepaid) copies to the person served at his or her usual place of abode where the copies were left. |
| 0                            | CERTIFIED MAIL SERVICE. By mailing to an address outside Mississippi (by first class mail, postage prepaid, requiring a return receipt) copies to the person [attach signed return receipt or other evidence of actual delivery to the person served.]  |
| At the                       | time of service, I was at least eighteen (18) years of age and not a party to this action.  |
| PROC                         | CESS SERVER MUST LIST BELOW: [Please print or type]   |
| Name<br>Addre                | Jinn, h Taylor<br>ssi po By + 72 1626<br>Jackson M 29272  |
| Telepi                       | none Number: 600 600 0000   |
| STAT<br>COUI                 | TE OF MISSISSIPPI   |
| withir<br>the ab             | PERSONALLY APPEARED BEFORE ME, the undersigned authority in and for the state and county aforesaid, the named fine have a first duly sworn, stated on oath that all of the matters and facts set forth in love and foregoing "Proof of Service" are true and correct as therein stated.   |
| iesis                        | Procese server (signature)  |
| ફુંત્ર<br><b>છ</b> ે. ફંડાછા | ph SWORN TO AND SUBSCHIEM DEFORE ME, this the 30 day of 06 to 57 2017.  |
| MET A P                      | MISTARY HARVA   |
| MISTY .                      | Ommission Expires: MISTY R. HAMMAL.   |
| . RA                         | Commission Expires  |

Case: 56Cl1:17-cv-عرا147 Document #: 6 Filed: 10/مرا/2017 Page 1 of 2

## IN THE CIRCUIT COURT OF PERRY COUNTY, MISSISSIPPI

JERRY HINTON

PLAINTIFF

V,

CAUSE NO.: 2017-0147 H

BAGBY ELEVATOR COMPANY, MONTGOMERY ELEVATOR COMPANY, KONE INC., JOHN DOE PERSON(S) 1 - 5 and JOHN DOE ENTITY(IES) 1 - 5

DEFENDANTS

#### **SUMMONS**

TO ANY OTHER LAWFUL AUTHORIZED PERSON, WE COMMAND YOU TO SUMMON:

TO: CT Corporation System, Registered Agent for Montgomery Elevator Company 118 North Congress Street Jackson; Mississippi 39205

### NOTICE TO DEFENDANT

THE COMPLAINT AND DISCOVERY, WHICH ARE ATTACHED TO THIS SUMMONS, IS IMPORTANT AND YOU MUST TAKE IMMEDIATE ACTION TO PROTECT YOUR RIGHTS.

You are required to mail or hand-deliver a copy of a written response to the Complaint and Plaintiff's First Set of Interrogatories Propounded to Defendant and Plaintiff's First Set of Requests for Production of Documents Propounded to Defendant to the Honorable Brett Ferguson, the attorney for the Plaintiff(s), whose address is 162 East Amite Street, Jackson, Mississippi 39201 and mailing address of Post Office Box 3949, Jackson, Mississippi 39207-3949.

Your response must be mailed or delivered within thirty (30) days from the date of delivery of this Summons, Complaint and Discovery or a judgment by default will be entered against you for the money or other things demanded in the Complaint. Your response to Plaintiff's First Set of Separate Interrogatories Propounded to Defendant and Plaintiff's First Set of Request for Production of Documents Propounded to Defendant must be mailed or delivered within forty-five (45) days from the date of delivery of this Summons or a judgment by default will be entered against you for the money or other things demanded in the Complaint.

You must file the original of your response with the Clerk of this Court within a reasonable time afterward.

ssued with the least of said Court, this the least of October, 2017.

Licenst Clerk of Perry County, Mississippi

Court And Court County, Mississippi

Court And Court County, Mississippi

| ì  | Case: 56CI1:17-cv-w1P4R ODOUTHED: SERIEV: 10 2017 Page 2 of 2  (Process Server)  [Use separate proof of service for each person served]  |
|--|--|
| <u>(                                    </u> | f Person or Entity Served  |
| named :<br>informa                           | I, the undersigned process server, served the Summons, Complaint and Discovery upon the person or entity above in the manner set forth below [process server must check proper space and provide all additional ation that is requested to the mode of service used]:  |
| J  | FIRST CLASS MAIL AND ACKNOWLEDGMENT SERVICE. By mailing (by first class mail, postage prepaid) copies to the person served, together with copies of the form of notice and acknowledgment and return envelope, postage prepaid, addressed to the sender [attached completed acknowledgment of receipt pursuant to M.R.C.P. Form IB]. |
| L  | PERSONAL SERVICE. I personally delivered an issued Summons, Complaint and Discovery to Matternational Country of the State of Mississippi. 1025 07   |
| a  | RESIDENCE SERVICE. After exercising reasonable diligence I was unable to deliver copies to said person within County, Mississippi. I served the Summons, Complaint and Discovery on the  |
| ם  | CERTIFIED MAIL SERVICE. By mailing to an address outside Mississippi (by first class mail, postage prepaid, requiring a return receipt) copies to the person [attach signed return receipt or other evidence of actual delivery to the person served.]   |
|  | time of service, I was at least eighteen (18) years of age and not a party to this action.   |
| Name;<br>Addres                              |  |
| STATI  | e of mississippi<br>try of <u>Hiadr</u>  |
| within<br>the abo                            | PERSONALLY APPEARED BEFORE ME, the undersigned authority in and for the state and county aforesaid, the named in the state and county aforesaid, the named in the state and facts set forth in over and foregoing "Proof of Service" are true and correct as therein stated.  Process server (signature)                             |
|  | SWORN TO AND SUBSCRIBED BEFORE ME, this the 30 day of Octuber, 2017.  NOTARY PUBLIC  |
| Му С   | ommission Expires;  MISTY R. HAMMACK  Commission Expires.  |

Case: 56CI1:17-cv-مراكة ( Document #: 5 Filed: 10 كونارة / 2017 Page 1 of 2

## IN THE CIRCUIT COURT OF PERRY COUNTY, MISSISSIPPI

JERRY HINTON

V.

PLAINTIFF

CAUSE N

CAUSE NO.: 2017-0147 H

BAGBY ELEVATOR COMPANY, MONTGOMERY ELEVATOR COMPANY, KONE INC., JOHN DOE PERSON(S) 1 - 5 and JOHN DOE ENTITY(IES) 1 - 5

DEFENDANTS

#### **SUMMONS**

TO ANY OTHER LAWFUL AUTHORIZED PERSON, WE COMMAND YOU TO SUMMON:

TO: CT Corporation System, Registered Agent for Bagby Elevator Company

645 Lakeland East Drive, Suite 101 Flowood, Mississippi 39232

#### NOTICE TO DEFENDANT

THE COMPLAINT AND DISCOVERY, WHICH ARE ATTACHED TO THIS SUMMONS, IS IMPORTANT AND YOU MUST TAKE IMMEDIATE ACTION TO PROTECT YOUR RIGHTS.

You are required to mail or hand-deliver a copy of a written response to the Complaint and Plaintiff's First Set of Interrogatories Propounded to Defendant and Plaintiff's First Set of Requests for Production of Documents Propounded to Defendant to the Honorable Brett Ferguson, the attorney for the Plaintiff(s), whose address is 162 East Amite Street, Jackson, Mississippi 39201 and mailing address of Post Office Box 3949, Jackson, Mississippi 39207-3949.

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You must file the original of your response with the Clerk of this Court within a reasonable time afterward.

Issued under my hand and the seal of said Court, this the day of October, 2017.

Citcuit Clerk of Perry County, Mississipp

Circuit Clerk of Perry County, Mississippi

|                  | Case: 56CI1:17-cv-up4R ODockment#: SE Riad:110 w/2017 Page 2 of 2  (Process Server)  [Use separate proof of service for each person served]  |
|------------------|--|
| Vame (           | CT (XP) of Person or Entity Served   |
| named<br>inform  | I, the undersigned process server, served the Summons, Complaint and Discovery upon the person or entity above in the manner set forth below [process server must check proper space and provide all additional ation that is requested to the mode of service used]:  |
| J                | FIRST CLASS MAIL AND ACKNOWLEDGMENT SERVICE. By mailing (by first class mail, postage prepaid) copies to the person served, together with copies of the form of notice and acknowledgment and return envelope, postage prepaid, addressed to the sender [attached completed acknowledgment of receipt pursuant to M.R.C.P. Form IB].   |
| X                | PERSONAL SERVICE. I personally delivered an issued Summons, Complaint and Discovery to MA++  This of FA++ on the 27 day of Ut-tale, 2017, where I found said person in A++  County of the State of Mississippi. 102- A 7   |
| o                | RESIDENCE SERVICE. After exercising reasonable diligence I was unable to deliver copies to said person within  County, Mississippi. I served the Summons, Complaint and Discovery on the  day of, 2017, at the usual place of abode of said person by leaving a true copy of the Summons,  Complaint and Discovery with who is the  [here insert wife, husband, son, daughter, or other person as the case may be], a member of the family of the person |
|                  | served above the age of sixteen (16) years and willing to receive mesummons, Complaint and Discovery, thereafter on the day of, 2017, I mailed (by first class mail, postage prepaid) copies to the person served at his or her usual place of abode where the copies were left.   |
|                  | CERTIFIED MAIL SERVICE. By mailing to an address outside Mississippi (by first class mail, postage prepaid, requiring a return receipt) copies to the person [attach signed return receipt or other evidence of actual delivery to the person served.]   |
| At the           | time of service, I was at least eighteen (18) years of age and not a party to this action.   |
| PROC             | CESS SERVER MUST LIST BELOW: [Please print or type]  |
| Addre            | Sing, A TAylor  SSS: FO Oct Thousand  SACKSON MS 19972  hone Number: 60 [ 6 1] 0244  |
| STAT<br>COUN     | TE OF MISSISSIPPI<br>NTY OF <u>Hiadr</u>   |
| within<br>the ab | PERSONALLY APPEARED BEFORE ME, the undersigned authority in and for the state and county aforesaid, the named when the state are true and correct as therein stated.   |
|                  | Process Server (signature)   |
|                  | SWORN TO AND SUBSCRIBE BEFORE ME, this the 30 day of October, 2017.  Wister HUMANULL  NOTARY PUBLIC  |
| Mv C             | Commission Expires: MANNACK  |

### IN THE CIRCUIT COURT OF PERRY COUNTY, MISSISSIPPI

JERRY HINTON

V.

PLAINTIFF CAUSE NO.: 2017 — 0147 H

BAGBY ELEVATOR COMPANY, MONTGOMERY ELEVATOR COMPANY, KONE INC., JOHN DOE PERSON(S) 1 - 5 and JOHN DOE ENTITY(IES) 1 - 5

DEFENDANTS

#### **SUMMONS**

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TO:

CT Corporation System, Registered Agent for Bagby Elevator Company 645 Lakeland East Drive, Suite 101 Flowood, Mississippi 39232

#### NOTICE TO DEFENDANT

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You must file the original of your response with the Clerk of this Court within a reasonable time afterward.

Issued under my hand and the seal of said Court, this the 10 day of October, 2017.

incuit Clerk of Perry County, Mississippi

Salitro Braver D.C

# PROOF OF SERVIC (Process Server) [Use separate proof of service for each person served]

| Name (          | of Person or Entity Served  |
|-----------------|---|
| named<br>inform | I, the undersigned process server, served the Summons, Complaint and Discovery upon the person or entity above in the manner set forth below [process server must check proper space and provide all additional action that is requested to the mode of service used]:  |
| ٥               | FIRST CLASS MAIL AND ACKNOWLEDGMENT SERVICE. By mailing (by first class mail, postage prepaid) copies to the person served, together with copies of the form of notice and acknowledgment and return envelope, postage prepaid, addressed to the sender [attached completed acknowledgment of receipt pursuant to M.R.C.P. Form 1B].  |
| Ö               | PERSONAL SERVICE. I personally delivered an issued Summons, Complaint and Discovery to on the day of, 2017, where I found said person in County of the State of Mississippi.  |
|                 | RESIDENCE SERVICE. After exercising reasonable diligence I was unable to deliver copies to said person within  County, Mississippi. I served the Summons, Complaint and Discovery on the  day of, 2017, at the usual place of abode of said person by leaving a true copy of the Summons,  who is the   |
|                 | Complaint and Discovery with  [here insert wife, husband, son, daughter, or other person as the case may be], a member of the family of the person served above the age of sixteen (16) years and willing to receive the Summons, Complaint and Discovery, and thereafter on the day of, 2017, I mailed (by first class mail, postage prepaid) copies to the person served at his or her usual place of abode where the copies were left. |
| đ               | CERTIFIED MAIL SERVICE. By mailing to an address outside Mississippi (by first class mail, postage prepaid, requiring a return receipt) copies to the person [attach signed return receipt or other evidence of actual delivery to the person served.]  |
| At the          | time of service, I was at least eighteen (18) years of age and not a party to this action.  |
| PRO             | CESS SERVER MUST LIST BELOW: [Please print or type]   |
| Name<br>Addre   | ess:  |
| Telep           | hone Number:  |
|                 | TE OF MISSISSIPPI<br>NTY OF   |
| withi<br>the al | PERSONALLY APPEARED BEFORE ME, the undersigned authority in and for the state and county aforesaid, the in named, who being by me first duly sworn, stated on oath that all of the matters and facts set forth in bove and foregoing "Proof of Service" are true and correct as therein stated.   |
|                 | Process server (signature)  |
|                 | SWORN TO AND SUBSCRIBED BEFORE ME, this the day of, 2017.   |
|                 | NOTARY PUBLIC   |
| Му              | Commission Expires:   |
|                 |   |

IN THE CIRCUIT COURT OF PERRY COUNTY, MISSISSIPPI

JERRY HINTON

٧.

CAUSE NO.: 2017 - 0147 H

BAGBY ELEVATOR COMPANY, MONTGOMERY ELEVATOR COMPANY, KONE INC., JOHN DOE PERSON(S) 1 - 5 and JOHN DOE ENTITY(IES) 1 - 5

DEFENDANTS

#### **SUMMONS**

TO ANY OTHER LAWFUL AUTHORIZED PERSON, WE COMMAND YOU TO SUMMON:

> CT Corporation System, Registered Agent for TO:

Montgomery Elevator Company 118 North Congress Street Jackson, Mississippi 39205

#### NOTICE TO DEFENDANT

THE COMPLAINT AND DISCOVERY, WHICH ARE ATTACHED TO THIS SUMMONS, IS IMPORTANT AND YOU MUST TAKE IMMEDIATE ACTION TO PROTECT YOUR RIGHTS.

You are required to mail or hand-deliver a copy of a written response to the Complaint and Plaintiff's First Set of Interrogatories Propounded to Defendant and Plaintiff's First Set of Requests for Production of Documents Propounded to Defendant to the Honorable Brett Ferguson, the attorney for the Plaintiff(s), whose address is 162 East Amite Street, Jackson, Mississippi 39201 and mailing address of Post Office Box 3949, Jackson, Mississippi 39207-3949.

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You must file the original of your response with the Clerk of this Court within a reasonable time afterward.

Issued under my hand and the seal of said Court, this the 19 day of October, 2017.

# PROOF OF SERVIC .... (Process Server) [Use separate proof of service for each person served]

| Name o           | of Person or Entity Served   |
|------------------|--|
| named<br>inform  | I, the undersigned process server, served the Summons, Complaint and Discovery upon the person or entity above in the manner set forth below [process server must check proper space and provide all additional ation that is requested to the mode of service used]:  |
| O                | FIRST CLASS MAIL AND ACKNOWLEDGMENT SERVICE. By mailing (by first class mail, postage prepaid) copies to the person served, together with copies of the form of notice and acknowledgment and return envelope, postage prepaid, addressed to the sender [attached completed acknowledgment of receipt pursuant to M.R.C.P. Form 1B].   |
|                  | PERSONAL SERVICE. I personally delivered an issued Summons, Complaint and Discovery to on the day of, 2017, where I found said person in County of the State of Mississippi.   |
| ٥                | RESIDENCE SERVICE. After exercising reasonable diligence I was unable to deliver copies to said person within  |
|                  |  |
|                  | day of, 2017, at the usual place of abode of said person by leaving a title copy of the copy o |
|                  | <b>CERTIFIED MAIL SERVICE</b> . By mailing to an address outside Mississippi (by first class mail, postage prepaid, requiring a return receipt) copies to the person [attach signed return receipt or other evidence of actual delivery to the person served.]   |
| At the           | time of service, I was at least eighteen (18) years of age and not a party to this action.   |
| PROC             | CESS SERVER MUST LIST BELOW: [Please print or type]  |
| Name             |  |
| Addre            | ess:   |
| Telep            | hone Number:   |
|                  | TE OF MISSISSIPPI<br>NTY OF  |
| within<br>the ab | PERSONALLY APPEARED BEFORE ME, the undersigned authority in and for the state and county aforesaid, the named, who being by me first duly sworn, stated on oath that all of the matters and facts set forth in bove and foregoing "Proof of Service" are true and correct as therein stated.   |
|                  | Process server (signature)   |
|                  | SWORN TO AND SUBSCRIBED BEFORE ME, this the day of, 2017.  |
|                  | NOTARY PUBLIC  |
| Му (             | Commission Expires:  |
|                  |  |

## IN THE CIRCUIT COURT OF PERRY COUNTY, MISSISSIPPI

JERRY HINTON

V.

PLAINTIFF

CAUSE N

CAUSE NO.: 2017-0147#

BAGBY ELEVATOR COMPANY, MONTGOMERY ELEVATOR COMPANY, KONE INC., JOHN DOE PERSON(S) 1 - 5 and JOHN DOE ENTITY(IES) 1 - 5

DEFENDANTS

#### **SUMMONS**

TO ANY OTHER LAWFUL AUTHORIZED PERSON, WE COMMAND YOU TO SUMMON:

TO: Corporation Service Company, Registered Agent for

KONE INC.

5760 I-55 North, Suite 150 Jackson, Mississippi 39211

#### NOTICE TO DEFENDANT

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You must file the original of your response with the Clerk of this Court within a reasonable time afterward.

Issued under my hand and the seal of said Court, this the 19 day of October, 2017.

Circuit Clerk of Perry County, Mississippi

Tatilla Brewer D.C

# PROOF OF SERVIC ... (Process Server) [Use separate proof of service for each person served]

| <del> ±</del> - |  |  |  |  |
|-----------------|--|--|--|--|
| vame o          | f Person or Entity Served  |  |  |  |
| iamed<br>nform: | I, the undersigned process server, served the Summons, Complaint and Discovery upon the person or entity above in the manner set forth below [process server must check proper space and provide all additional ation that is requested to the mode of service used]:  |  |  |  |
| J               | FIRST CLASS MAIL AND ACKNOWLEDGMENT SERVICE. By mailing (by first class mail, postage prepaid) copies to the person served, together with copies of the form of notice and acknowledgment and return envelope, postage prepaid, addressed to the sender [attached completed acknowledgment of receipt pursuant to M.R.C.P. Form 1B].   |  |  |  |
| J               | PERSONAL SERVICE. I personally delivered an issued Summons, Complaint and Discovery to on the day of, 2017, where I found said person in County of the State of Mississippi.   |  |  |  |
|                 |  |  |  |  |
| 0               | RESIDENCE SERVICE. After exercising reasonable diligence I was unable to deliver copies to said person within County, Mississippi. I served the Summons, Complaint and Discovery on the  |  |  |  |
|                 |  |  |  |  |
|                 | day of 2017, at the usual place of about of said posson who is the who is the who is the [here insert wife, husband, son, daughter, or other person as the case may be], a member of the family of the person served above the age of sixteen (16) years and willing to receive the Summons, Complaint and Discovery, and thereafter on the day of, 2017, I mailed (by first class mail, postage prepaid) copies to the person served at his or her usual place of abode where the copies were left. |  |  |  |
|                 | CERTIFIED MAIL SERVICE. By mailing to an address outside Mississippi (by first class mail, postage prepaid, requiring a return receipt) copies to the person [attach signed return receipt or other evidence of actual delivery to the person served.]   |  |  |  |
| At the          | time of service, I was at least eighteen (18) years of age and not a party to this action.   |  |  |  |
|                 | CESS SERVER MUST LIST BELOW: [Please print or type]  |  |  |  |
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| Addre           | ess:   |  |  |  |
| Telepl          | hone Number:   |  |  |  |
|                 | TE OF MISSISSIPPI  |  |  |  |
| within          | PERSONALLY APPEARED BEFORE ME, the undersigned authority in and for the state and county aforesaid, the named, who being by me first duly sworn, stated on eath that all of the matters and facts set forth in bove and foregoing "Proof of Service" are true and correct as therein stated.   |  |  |  |
|                 | Process server (signature)   |  |  |  |
|                 |  |  |  |  |
|                 | SWORN TO AND SUBSCRIBED BEFORE ME, this the day of, 2017.  |  |  |  |
|                 | NOTARY PUBLIC  |  |  |  |
| МуС             | Commission Expires:  |  |  |  |
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N NAMES OF STREET

IN THE CIRCUIT COURT OF PERRY COUNTY, MISSISSIPP

OCT 19 2017
PLANCE CONTROL OF THE PERSON PLANCE PROPERTY OF THE PERSON PROPERTY OF THE PERS

JERRY HINTON

٧.

CAUSE NO.: 2017 - 5147 H

BAGBY ELEVATOR COMPANY, MONTGOMERY ELEVATOR COMPANY, KONE INC., JOHN DOE PERSON(S) 1 - 5 and JOHN DOE ENTITY(IES) 1 - 5

DEFENDANTS

## COMPLAINT (Jury Trial Requested)

COMES NOW the Plaintiff, Jerry Hinton, by and through his counsel of record, and files this Complaint against the Defendants, Bagby Elevator Company, Montgomery Elevator Company, KONE INC., John Doe Person(s) 1 - 5 and John Doe Entity(ies) 1 - 5, and in support thereof, would show unto this Honorable Court the following, to-wit:

#### I. Parties

1.

The Plaintiff, Jerry Hinton, is an adult resident citizen of Perry County, Beaumont, Mississippi.

2.

The Defendant, Bagby Elevator Company, is a foreign corporation registered to do business in the State of Mississippi, who may be served with process through its registered agent for service of process, CT Corporation System, 645 Lakeland East Drive, Suite 101, Flowood, Mississippi 39232.

3.

The Defendant, Montgomery Elevator Company, is a foreign corporation registered to do business in the State of Mississippi, who may be served with process through its registered agent for service of process, CT Corporation System, 118 North Congress Street, Jackson, Mississippi 39205.

4.

The Defendant, KONE INC., is a foreign corporation registered to do business in the State of

#### IV. Negligence

11.

The Defendants failed to provide and maintain safe equipment for the employees and invitees on the premises.

12.

The Defendants failed to properly and adequately inspect and maintain its equipment on the premises.

13.

The Defendants were negligent for its failure to warn the Plaintiff of the dangers to his person while on the premises.

14.

The Defendants failed to perform and violated or breached all and singularly the duties owed to Plaintiff as set forth in the preceding paragraphs hereof, and such failure, breach and violation constituted negligence on the part of the Defendants.

#### V. Damages

15.

As a direct and proximate result of the negligence of the Defendants, the Plaintiff, Jerry Hinton, suffered injuries and damages which include, but are not limited to the following:

- Past, present and future physical pain and suffering;
- B. Inconvenience and aggravation resulting in emotional and mental suffering past, present and future;
- C. Hospital bills, doctor bills, prescription drug bills and other medical and medical related expenses which have been incurred and which will continue to be incurred in the future;
- D. Permanent physical impairment and disability;
- E. Loss of wages; and

F. Loss of enjoyment of life.

WHEREFORE, PREMISES CONSIDERED, Plaintiff, Jerry Hinton, demands a judgment of, from and against the Defendants in an amount within the jurisdictional limits of this Court to be determined at the trial of this cause plus interest from the date of the filing of the original Complaint and all costs of Court.

RESPECTFULLY SUBMITTED this the 17th day of October, 2017.

Jerry Hinton Plaintiff

By:

Brett A Ferguson (MSB# 103236)

Attorney for Plaintiff

#### Of Counsel:

Schwartz & Associates, P.A. 162 East Amite Street Post Office Box 3949 Jackson, Mississippi 39207 Telephone: 601-988-8888

Facsimile: 601-949-7929

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| Check ( x ) if Individual Defendant D/B/A or Agency  Business Bagby Elevator Company Enter legal or Check ( x ) if Business Defendant D/B/A  Attorney (Name & Address) - If Known  Check ( x ) if child support is contempt if checked, please submit completed Child Nature of Suit (Place an "X" in one box  Domestic Relations  Child Custody/Visitation  Child Support  Contempt  Divorce: Freconcliable Diff.  Domestic Abuse Emancipation  Modification  Paternity  Property Division  Separate Maintenance  Term. of Parental Rights-Chancery  UIFSA (eff 7/1/97; formerly URESA)   | plated as an issue in this suit.*  Support information Sheet with this Cover Sheet Conly)  Business/Commercial  Accounting (Business)  Business Dissolution  Debt Collection  Employment  Foreign Judgment  Garnishment  Replevin  Other  Accounting (Probate)  Birth Certificate Correction  Mental Health Commitment  Conservatorship  | agency - If Corporation, indicate the state whan the above, and enter below:  Alcohol/Drug Commitment (voluntary)  Other  Children/Minors - Non-Domestic.  Adoption - Contested  Adoption - Uncontested  Consent to Abortion  Minor Removal of Minority  Other  Civil Rights  Elections  Expungement,  Habeas Corpus  Post Conviction Relief/Prisoner  Other  Contract  Installment Contract  | MS Bar No.  Real Property  Adverse Possession Ejectment Eminent Domain Eviction Judicial Foreclosure Lien Assertion Partition Tax Sale: Confirm/Cancel Title Boundary or Easement Other Bad Falth Fraud Intentional Tort Loss of Consortium Malpractice - Legal   |
| Check ( x ) if Individual Defendant D/B/A or Agency  Business Bagby Elevator Company Enter legal not Check ( x ) if Business Defendant D/B/A  Attorney (Name & Address) - If Known Check ( x ) if child support is contemy *If checked, please submit completed child Nature of Suit (Place an "X" in one box *Domestic Relations * Domestic Relations * Domestic Relations * Divorce: Irreconcilable Diff.  Divorce: Irreconcilable Diff.  Domestic Abuse  Emancipation  Modification  Paternity  Property Division  Separate Maintenance  Term. of Parental Rights-Chancery  UIFSA (eff 7/1/97; formerly URESA)  Other   | ame of business, corporation, partnership, is acting in the name of an entity other the background of the name of an entity other the background of the name of an entity other the background of the name of an entity other the background of the name of an entity other the name of an entity other of the name of the nam | agency - If Corporation, indicate the state when the above, and enter below:  Alcohol/Drug Commitment (voluntary) Other Children/Minors - Non-Domestic. Adoption - Contested Adoption - Uncontested Consent to Abortion Minor Removal of Minority Other Civil Rights Elections Expungement, Habeas Corpus Post Conviction Relief/Prisoner Other Contract Installment Contract Insurance   | MS Bar No.  Real Property  Adverse Possession Ejectment Eminent Domain Eviction Judicial Foreclosure Lien Assertion Partition Tax Sale: Confirm/Cancel Title Boundary or Easement Other  Bad Faith Fraud Intentional Tort Loss of Consortium Malpractice - Legal Malpractice - Medical  |
| Check ( x ) if Individual Defendant D/B/A or Agency  Business Bagby Elevator Company Enter legal not Check ( x ) if Business Defendant D/B/A  Attorney (Name & Address) - If Known  Check ( x ) if child support is contemy for the checked, please submit completed child Nature of Suit (Place an "X" in one box Domestic Relations  Child Custody/Visitation Child Support Contempt Divorce: Irreconcilable Diff. Domestic Abuse Emancipation Modification Paternity Property Division Separate Maintenance Term. of Parental Rights-Chancery UIFSA (eff 7/1/97; formerly URESA) Other Appeals  | ame of business, corporation, partnership, is acting in the name of an entity other the blate of as an issue in this suit.*    Support information Sheet with this Cover Sheet only)   | agency - If Corporation, indicate the state when the above, and enter below:  Alcohol/Drug Commitment (voluntary) Other Children/Minors - Non-Domestic. Adoption - Contested Adoption - Uncontested Consent to Abortion Minor Removal of Minority Other Civil Rights Elections Expungement, Habeas Corpus Post Conviction Relief/Prisoner Other Contract Installment Contract Insurance Specific Performance  | MS Bar No.  Real Property  Adverse Possession Ejectment Eminent Domain Eviction Judicial Foreclosure Lien Assertion Partition Tax Sale: Confirm/Cancel Title Boundary or Easement Other  Bad Faith Fraud Intentional Tort Loss of Consortium Malpractice - Legal Malpractice - Medical Mass Tort  |
| Check ( x ) if Individual Defendant D/B/A or Agency  Business Bagby Elevator Company Enter legal not Check ( x ) if Business Defendant D/B/A  Attorney (Name & Address) - If Known Check ( x ) if child support is contemy *If checked, please submit completed child Nature of Suit (Place an "X" in one box *Domestic Relations * Domestic Relations * Domestic Relations * Divorce: Irreconcilable Diff.  Divorce: Irreconcilable Diff.  Domestic Abuse  Emancipation  Modification  Paternity  Property Division  Separate Maintenance  Term. of Parental Rights-Chancery  UIFSA (eff 7/1/97; formerly URESA)  Other   | ame of business, corporation, partnership, is acting in the name of an entity other the blate of an issue in this suit.*    Support information Sheet with this Cover Sheet only)  | agency - If Corporation, indicate the state when the above, and enter below:  Alcohol/Drug Commitment (voluntary) Other Children/Minors - Non-Domestic. Adoption - Contested Adoption - Uncontested Consent to Abortion Minor Removal of Minority Other Civil Rights Elections Expungement, Habeas Corpus Post Conviction Relief/Prisoner Other Other Installment Contract Insurance Specific Performance Other   | MS Bar No.  Real Property  Adverse Possession Ejectment Eminent Domain Eviction Judicial Foreclosure Lien Assertion Partition Tax Sale: Confirm/Cancel Title Boundary or Easement Other  Bad Faith Fraud Intentional Tort Loss of Consortium Malpractice - Legal Malpractice - Medical Mass Tort Negligence - General   |
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| Check ( x ) if Individual Defendant D/B/A or Agency  Business Bagby Elevator Company Enter legal not Check ( x ) if Business Defendant D/B/A  Attorney (Name & Address) - If Known  Check ( x ) if child support is contemy *If checked, please submit completed child Nature of Suit (Place an "X" in one box *Domestic Relations*  Child Custody/Visitation Child Support Contempt Divorce: Fault Divorce: Irreconcilable Diff.  Domestic Abuse Emancipation Modification Paternity Property Division Separate Maintenance Term. of Parental Rights-Chancery UIFSA (eff 7/1/97; formerly URESA) Other  Appeals  Administrative Agency County Court Hardship Petition (Driver License)  | ame of business, corporation, partnership, is acting in the name of an entity other the blate of an issue in this suit.*  Support information Sheet with this Cover Sheet only)  Business/Commercial  Accounting (Business)  Business Dissolution  Debt Collection  Employment  Foreign Judgment  Garnishment  Replevin  Other  Accounting (Probate)  Birth Certificate Correction  Mental Health Commitment  Conservatorship  Guardianship  Heirship  Intestate Estate  Minor's Settlement  | agency - If Corporation, indicate the state when the above, and enter below:  Alcohol/Drug Commitment (voluntary) Other Children/Minors - Non-Domestic. Adoption - Contested Adoption - Uncontested Consent to Abortion Minor Removal of Minority Other Civil Rights Elections Expungement Habeas Corpus Post Conviction Relief/Prisoner Other Other Installment Contract Insurance Specific Performance Other Statutes/Rules                                     | MS Bar No.  Real Property  Adverse Possession Ejectment Eminent Domain Eviction Judicial Foreclosure Lien Assertion Partition Tax Sale: Confirm/Cancel Title Boundary or Easement Other  Bad Faith Fraud Intentional Tort Loss of Consortium Malpractice - Legal Malpractice - Medical Mass Tort Negligence - General Negligence - Motor Vehicle                                      |
| Check ( x ) if Individual Defendant D/B/A or Agency  Business Bagby Elevator Company Enter legal not Check ( x ) if Business Defendant D/B/A  Attorney (Name & Address) - If Known  Check ( x ) if child support is contempt if checked, please submit completed Child Nature of Suit (Place an "X" in one box Domestic Relations  Child Custody/Visitation  Child Support  Contempt  Divorce: Freconcitable Diff.  Domestic Abuse  Emancipation  Modification  Paternity  Property Division  Separate Maintenance  Term. of Parental Rights-Chancery  UIFSA (eff 7/1/97; formerly URESA)  Other  Administrative Agency  County Court  Hardship Petition (Driver License)  Justice Court   | plated as an issue in this suit.*   Support information Sheet with this Cover Sheet conly)   | agency - If Corporation, indicate the state whan the above, and enter below:  Alcohol/Drug Commitment (Malambary) Other Children/Minors - Non-Domestic. Adoption - Contested Adoption - Uncontested Consent to Abortion Minor Removal of Minority Other Civil Rights Elections Expungement, Habeas Corpus Post Conviction Relief/Prisoner Other Contract Installment Contract Insurance Specific Performance Other Statutes/Rules Bond Validation                 | MS Bar No.  Real Property  Adverse Possession Ejectment Eminent Domain Eviction Judicial Foreclosure Lien Assertion Partition Tax Sale: Confirm/Cancel Title Boundary or Easement Other  Bad Faith Fraud Intentional Tort Loss of Consortium Malpractice - Legal Malpractice - Medical Mass Tort Negligence - General Negligence - Motor Vehicle Premises Llability Product Liability |
| Check ( x ) if Individual Defendant D/B/A or Agency  Business Bagby Elevator Company Enter legal not Check ( x ) if Business Defendant D/B/A  Attorney (Name & Address) - If Known  Check ( x ) if child support is contemy *If checked, please submit completed child Nature of Suit (Place an "X" in one box *Domestic Relations*  Child Custody/Visitation Child Support Contempt Divorce: Fault Divorce: Irreconcilable Diff.  Domestic Abuse Emancipation Modification Paternity Property Division Separate Maintenance Term. of Parental Rights-Chancery UIFSA (eff 7/1/97; formerly URESA) Other  Appeals  Administrative Agency County Court Hardship Petition (Driver License)  | ame of business, corporation, partnership, is acting in the name of an entity other the blate of as an issue in this suit.*  Support information Sheet with this Cover Sheet only)  Business/Commercial  Accounting (Business)  Business Dissolution  Debt Collection  Employment  Foreign Judgment  Garnishment  Replevin  Other  Probate  Accounting (Probate)  Birth Certificate Correction  Mental Health Commitment  Conservatorship  Guardianship  Heirship  Intestate Estate  Minor's Settlement  Muniment of Title   | agency - If Corporation, indicate the state whan the above, and enter below:  Alcohol/Drug Commitment (Malamary) Other Children/Minors - Non-Domestic. Adoption - Contested Adoption - Uncontested Consent to Abortion Minor Removal of Minority Other Civil Rights Elections Expungement, Habeas Corpus Post Conviction Relief/Prisoner Other Contract Installment Contract Insurance Specific Performance Other Statutes/Rules Bond Validation Civil Forfelture | MS Bar No.  Real Property  Adverse Possession Ejectment Eminent Domain Eviction Judicial Foreclosure Lien Assertion Partition Tax Sale: Confirm/Cancel Title Boundary or Easement Other  Bad Faith Fraud Intentional Tort Loss of Consortium Malpractice - Legal Malpractice - Medical Mass Tort Negligence - General Negligence - Motor Vehicle Premises Llability                   |

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|               | IN THE CIRCUIT   | COURT OF PERRY   | COUNTY, MISSISSIPPI  |
|---------------|--|--|--|
|               |  | JUDICIAL DISTRICT,   | City of  |
| Docket No.    | File Yr Chronological  | No. Clerk's Local ID   | Docket No. If Filed<br>Prior to 1/1/94                         |
|               | DEFENDANTS II<br>IN ADDITION TO DEFE   | N REFERENCED CAUSE - P<br>ENDANT SHOWN ON CIVIL                                  | age 1 of Defendants Pages<br>CASE FILING FORM COVER SHEET      |
| Defendant     | #2;  |  |  |
| Individual:   | Test Name  | First Name   | ( Maiden Name, if Applicable ) Middle Init. Jr/Sr/III/iV       |
| Check (v      | Last Name<br>/) if Individual Defendant is ac  | ting in capacity as Executor(trix)   | or Administrator(trix) of an Estate, and enter style:          |
|               |  |  |  |
|               |  |  | т/Operator (Ď/B/A) or State Agency, and enter that name below: |
|               |  | , , , , , , , , , , , , , , , , , , ,  |  |
| Business 1    | Aontgomery Elevator Compan   | y  | poration, indicate state where incorporated                    |
| Check (./     | Enter legal name of pusines  'if Rusiness Defendant is beli  | s, corporation, partiership, agency 4 in Cor<br>no sued in the name of an entity | other than the name above, and enter below:                    |
|               | ) II Dualitiosa Datoricame la por  |  |  |
|               |  |  | Pro Hac Vice (✓) Not an Attorney(✓)                            |
| Defendant     | #3.  |  |  |
| Individual    |  | 1  | ( Maiden Name, if Applicable ) Middle init. Jr/Sr/III/IV       |
| III GIVIGUEI. | Last Name  | First Name   | or Administrator(trix) of an Estate, and enter style:          |
| Check (       | /) it individual Deteridant is at  | sting in capacity as Executor(this)  | Of Marining and Chiny of all Loudes and college of             |
|               |  |  | r/Operator (D/B/A) or State Agency, and enter that name below: |
|               |  | ing in capacity as business owns   |  |
|               |  |  |  |
| Business 2    | Enter legal name of busines  | s, corporation, partnership, agency - if Co                                      | rporation, indicate state where incorporated                   |
|               |  |  | other than the name above, and enter below:                    |
|               | \  |  | On Hon Vian ( ) Not an Attorney ( )                            |
| ATTORNEY F    | OR THIS DEFENDANT:B  | ar # or Name:  | Pro Hac Vice (✓) Not an Attorney(✓)                            |
| Defendant     | t #4:  |  | ·  |
| Individual    | Last Name  | First Name   | (  |
| Check (       |  |  | ) or Administrator(trix) of an Estate, and enter style:        |
| Estat         | e of   |  |  |
| _Check (      | ✓) if Individual Defendant is ac   | ting in capacity as Business Owne  | er/Operator (D/B/A) or State Agency, and enter that name below |
|               |  |  |  |
| Business "    | Control of the second of the s | oe cornoration narinership sagnoy - If Co  | proration, indicate state where incorporated                   |
|               |  |  | y other than the above, and enter below:                       |
|               | A  |  |  |
|               |  | Bar # or Name:   | Pro Hac Vice (✓) Not an Attorney(✓)                            |